

**CHAPTER NO. 1048**

**HOUSE BILL NO. 3305**

**By Representatives Haley, McDaniel, Hargett, Pleasant**

**Substituted for: Senate Bill No. 3303**

**By Senators Fowler, Atchley**

AN ACT to amend Tennessee Code Annotated, Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 12; Title 18; Title 34; Title 36; Title 37; and Title 71, relative to child and spousal support.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-5-114, is amended by deleting the section in its entirety and by substituting instead the following:

36-5-114. Federally required state collection and disbursement unit for child and spousal support.— (a)(1) The provisions of this section are intended to outline a flexible waiver application procedure for the federally required centralized collection and disbursement of child and spousal support established pursuant to 42 U.S.C. 654b. Wherever the terminology “collection and disbursement” is used in this section, or in other sections of law using that terminology, it is the legislative intent that the use of such term in the conjunctive shall not be construed to prevent the Department of Human Services from seeking waivers and the State of Tennessee from implementing any procedures, permitted by federal law, regulations, or interpretations of such law or regulations or such waivers, which may allow for alternate methods or processes for either collection or disbursement of child and spousal support by the clerks of the court of this State.

(2)(A) If the federal law, or regulations or the interpretation of such law or regulations, are repealed or modified so that centralized collection and disbursement is no longer mandated by federal law, and such repeal or modification occurs before the implementation of the centralized collection system, either directly by Department of Human Services itself or before the execution of a contract by the department with a contractor for the operation of such system, the provisions of state law addressing such a centralized system for the collection and disbursement of child and spousal support shall be null and void.

(B) Should the federal requirement of a centralized system be repealed or modified after implementation by the State Department of Human Services of the federally required centralized collection and disbursement system, either directly by the department or by the department through a contractor, the provisions of law relative to the federally required centralized collection and disbursement system shall remain in effect, but the Commissioner of the Department of Human Services shall, at the request of and in conjunction with the clerks of the courts, develop a plan for transition of the collection and disbursement functions to the clerks of the courts which shall include proposed legislation which may be necessary to return the collection and disbursement process to the clerks of court. The plan shall be submitted to the chairs of the House Children and Family Affairs Committee and the Senate Judiciary Committee prior to the beginning of the next session of the General Assembly

after the repeal or modification of the federal requirements, but in no event later than ninety (90) days after the repeal or modification of the federal requirements.

(3) Nothing herein shall impair the validity of a contract which has been executed by the State of Tennessee or the Department of Human Services with any person or entity for the operation of the federally required centralized collection and disbursement system before the repeal or modification of the federal centralized collection and disbursement requirement.

(b)(1) If a waiver is available under federal law or regulations that would enable the clerks of court to continue to collect or disburse child and spousal support, the Commissioner of Human Services shall, at the request of the clerks of court conference, consult with the clerks of the courts to determine the feasibility of implementing the provisions of such a waiver, and shall make application to the United States Department of Health and Human Services for such a waiver; provided, however, if the department has contracted for the operation of the central collection and disbursement system at the time federal law and regulations, or the interpretation of such, have changed, then the provisions of this subdivision shall be subject to the contract terms.

(2) In the event the waiver is granted which permits the clerks of court to perform services in the central collection and disbursement system, the clerks of court may enter into a contract, as permitted by State and federal law, with a third party to perform any of the functions required by federal law or required under such a waiver. If such a contract is appropriate, the President of the State court clerks conference, upon authorization of the Board of Directors of the State court clerks conference, shall have authority to bind the members of the conference to the terms of the contract. The contract may provide for any contractor to retain or distribute all or part of the clerks' fees authorized by § 8-21-403, if permitted by federal regulations. Under any plan, the collection and disbursement of child and spousal support shall be conducted in such a manner as will not adversely affect either compliance with federal regulations or federal funding for the Title IV-A block grant program and the Title IV-D child support program.

SECTION 2. Tennessee Code Annotated, Title 36, Chapter 5, Part 1, is amended by adding the following as a new section:

36-5-115. State Registry of Support Cases. –(a) “Support order” for purposes of this section means an order in which there is a judgment, decree, or order, whether temporary, final, or subject to modification, which is issued by a court of competent jurisdiction or an administrative agency of competent jurisdiction, for the support and maintenance of a child, including a child who has attained the age of majority under the law of the State which issued the order and which order, judgment, or decree provides for monetary support, health care, arrearages, or reimbursement, and which may include related costs and fees, interest, penalties, income withholding, attorneys fees, and other relief.

(b) All cases of support for which services are being provided pursuant to Title IV-D of the Social Security Act, and all support orders which are established or modified on or after October 1, 1998, regardless of whether such orders result from cases being enforced pursuant to Title IV-D of the Social Security Act, shall be contained in an automated state registry of support cases and support orders to be operated by the Department of Human Services under such conditions, and containing such data elements, as are required by the Secretary of the United States Department of Health and Human Services pursuant to 42 U.S.C. 654a.

(c)(1)(A) The clerk of the court who had opted out of the statewide child support computer system prior to March 1, 1998 and who maintains the records of support orders described in subsection (b) in non-Title IV-D cases, shall send a facsimile copy of the order, any necessary data elements required by the Secretary of the United States Department of Health and Human Services and any additional updated information regarding such data elements on the support case at such time as it is supplied to the clerk by the parties to the case, to the department or its contractor on a daily basis on a line and facsimile machine provided for such purpose by the Department of Human Services. The machine shall be provided if the clerk's office does not have a facsimile machine as determined by the department through an equipment assessment. Line charges shall be the responsibility of the department either through use of a toll-free line or pursuant to the cost reimbursement requirements of § 36-5-117.

(B) As an alternative to provision by the clerk of the order and information as required by subdivision (c)(1)(A) by use of a facsimile machine, for those clerks who have opted out of the statewide child support enforcement system pursuant to §36-5-101(a), upon the request of the clerk, the department shall conduct a computer needs assessment of the clerk's office. Based upon the assessment, the department shall provide either adequate computer equipment and Tennessee Child Support Enforcement System (TSCES) software to permit the transfer of information required by the federal case registry provisions, or if the clerk has an existing computer system which is the same system as a clerk that is currently interfacing with the Department of Human Services' TSCES system, that clerk shall be given the same opportunity to interface with the TSCES system, with the costs of any modifications required to transmit the required data elements or to otherwise meet the requirements of federal law needed for the interfacing system to be the responsibility of the Department of Human Services.

(2) For clerks who operate under TSCES or under the TSCES interfacing system, including the model interfacing systems, the department will absorb the costs of modifications of the computer system necessary to receive and transmit information required by the federal law for the operation of the central case registry. For cases which are not subject to enforcement by the department pursuant to Title IV-D of the Social Security Act, these clerks shall transmit to the department or its contractor on a daily basis on TSCES, or the TSCES interfacing system, including the model interfacing system, the necessary data elements for the support case registry required by the Secretary of the United States Department of Health and Human Services and any additional updated information regarding such data elements at such time as it is supplied to the clerk.

(d) The clerks' costs for services of this section shall be paid according to the reimbursement process established pursuant to § 36-5-117.

SECTION 3. Tennessee Code Annotated, Title 36, Chapter 5, Part 1, is amended by adding the following as a new section:

36-5-116. Establishment of central collection and disbursement unit. –

(a)(1) Effective October 1, 1999, the Department of Human Services shall become the central collection and disbursement unit for the State as required by 42 U.S.C. 654b. All orders in Title IV-D support cases, and all orders for income assignments which have directed support to be paid to the clerk of any court, and which are subject to the provisions of 42 U.S.C. 654b, shall be deemed to require

that the support be sent to the central collection and disbursement unit, any order of the court notwithstanding.

(2) When the department or its contractor acts as the central collection and disbursement unit, then, notwithstanding any provision of law to the contrary, the fee paid by the obligor for the collection and disbursement of child support pursuant to § 8-21-403 shall be paid to the Department of Human Services with respect to payments collected or disbursed by the central system. The processing of such fees shall be conducted in such a manner as will not adversely affect compliance with federal law or regulations and will not adversely affect federal funding for the Title IV-A block grant program and the Title IV-D child support program. Provided, further, the department may by rules promulgated pursuant to the provisions of Title 4, Chapter 5, reduce the fee provided in § 8-21-403 with respect to cases under the centralized collection and disbursement unit.

(b)(1) Each clerk shall submit to the Department of Human Services, in the manner described in subsection (c), on a daily basis on the day the order is entered, the information required to permit the department to process all payments for child and spousal support which are required by federal law to be collected and disbursed by the federally mandated state collection and disbursement unit, and such other information necessary to update the processing of information for collection and disbursement if contained in the court records.

(2) The clerks' services for providing such information shall be paid by the department according to the reimbursement process established by § 36-5-117.

(c) The clerks of court who have opted out and those clerks who operate a Tennessee Child Support Enforcement System (TCSSES) or TCSSES interface computer system, including the model interface system, shall have the same options as contained in § 36-5-115(c) for transmitting data required for the processing of information relative to the collection and disbursement of child and spousal support as required by this section. The clerk must, however, choose the same method of transmission of data for both the central case registry and the central collection data transmission.

(d)(1) Following implementation of the federally required central collection and disbursement unit, each clerk shall remain responsible for receipt of all support payments not subject to the requirements of the centralized collection and disbursement system.

(2) Payments received by the clerk for support cases which are not Title IV-D cases or which are not otherwise subject to the requirements of a central collection or disbursement system shall not be included in the cost reimbursement and shall be subject to the fees permitted by § 8-21-403 or such other fees permitted by law. Payments which are received by the clerk in cases subject to the central collection and disbursement system shall be distributed to the centralized collection and disbursement system; provided, however, the clerks shall be reimbursed the costs of such services pursuant to the provisions of § 36-5-117.

SECTION 4. Tennessee Code Annotated, Title 36, Chapter 5, is amended by adding the following as a new section:

36-5-117. Reimbursement of clerks of courts for activities involving child support, central state case registry and the central collection and disbursement system. –(a)(1) Notwithstanding any law to the contrary, and in lieu of any other fees or costs set forth by law which would otherwise be applicable to cases enforced by the Department of Human Services or its contractors pursuant to Title IV-D of the Social Security Act, and for activity related to the collection and disbursement of support in cases subject to 42 U.S.C.654b, and for their activities required pursuant to § 36-5-115, the clerks of court shall be reimbursed by the Department of Human Services to the maximum extent permitted under federal law and regulations for the actual costs of providing services for which federal financial participation is available for child and spousal support cases being enforced pursuant to, or otherwise subject to, the requirements of the Title IV-D child support program.

(2) Nothing in this section shall alter the method for payment of court costs in Title IV-D support cases or in non-Title IV-D support cases by private parties, if otherwise permitted by federal law or regulations.

(b) The actual costs shall be set according to the determination by the Comptroller of the Treasury pursuant to federal regulations relative to allowable and reimbursable costs under the Title IV-D child support enforcement program and for which federal financial participation is available.

(c)(1) The Comptroller of the Treasury shall conduct a study of the actual costs of the activities described for reimbursement pursuant to this act and shall make a determination of the amount of funds generated by the collection of the fee on the collection of child support pursuant to § 8-21-403. The comptroller shall report such study to the President of the State Court Clerks Conference, the Commissioners of Finance and Administration and Human Services and to the Director of the Administrative Office of the courts by October 1, 1998.

(2) When determining actual costs for services which shall be reimbursed, the comptroller shall consider that such services shall include, but are not limited to, filing costs, issuance of process or subpoenas, entry of orders, provision of copies, transmission of data, mailing costs, customer service activities, billing, auditing, electronic fund transfer costs, accounting activities, space, storage and personnel costs, equipment and materials costs, and any other reasonably related expenses, which are not otherwise provided by the State of Tennessee or the federal government, or by a litigant, and which are allowable costs for federal financial participation.

(d) The Comptroller of the Treasury shall review the costs for the clerks to provide such services on a biennial basis and shall report this to the same parties named in subdivision (c)(1) in order for the Departments of Human Services and Finance and Administration to adjust the costs as permitted by federal law and regulations and for which federal financial participation is available.

(e) The cost reimbursement process section shall be implemented upon the implementation of the centralized collection and disbursement system, but in no circumstance later than October 1, 1999. Reimbursement to the clerks of court under the cost reimbursement process shall be made on a monthly basis by electronic fund transfer. Reimbursement of such costs shall be made pursuant to a contract, if required by federal law or regulations, by the Department of Human Services with each clerk who performs such child or spousal support services as may be required by Title IV-D of the Social Security Act.

Notwithstanding any provision of law to the contrary, the clerk of the court shall have authority to contract with the Department of Human Services as may be required pursuant to this subsection.

(f) Notwithstanding any provision of law to the contrary, upon implementation of the reimbursement process described in this section, any provision of law which would otherwise exempt the Department of Human Services or its contractors from the payment of costs for cases subject to Title IV-D requirements involving child or spousal support services or as otherwise required pursuant to 42 U.S.C. 654b, shall be superseded by the provisions of the cost reimbursement provisions of this section, and all costs associated with services provided by the clerks of courts to the Department of Human Services or its contractors will be paid according to the cost reimbursement provisions of this section; provided, however, the provisions of this subsection negating such exemptions shall not apply to any exemptions from costs or fees required by federal law or regulations or any uniform act.

SECTION 5. Tennessee Code Annotated, Title 36, Chapter 5, Part 1, is amended by adding the following as a new section:

36-5-11\_. Notwithstanding the provisions of this part or any other law to the contrary, if the Department of Human Services serves as the central collection and disbursement unit for the State, then the department must establish, advertise and maintain a customer service unit and a statewide toll-free telephone line for the express purpose of receiving and responding to citizen inquiries and complaints concerning child support collections and disbursements. Notwithstanding the provisions of any law to the contrary, if a contractor of the Department of Human Services serves as the central collection and disbursement unit for the State, then the contractor must establish, advertise and maintain a customer service unit and a statewide toll-free telephone line for the express purpose of receiving and responding to citizen inquiries and complaints concerning child support collections and disbursements

SECTION 6. Tennessee Code Annotated, Title 36, Chapter 5, Part 1, is amended by adding the following as a new section:

36-5-11\_. Notwithstanding the provisions of this part or any other law to the contrary, the Department of Human Services shall vigorously investigate and determine the feasibility of securing the necessary waivers required to permit establishment of satellite offices for the State's central collection and disbursement unit. Such satellite offices would be established only in those counties which account for a substantial percentage of total child support collections within the State. Such satellite offices would locally collect and/or disburse child support and/or would provide a locally based customer service unit for residents of such county. On or before January 12, 1999, the department shall report its findings, recommendations and actions pursuant to this section to the Judiciary Committee of the Senate and to the Children and Family Affairs Committee of the House of Representatives.

SECTION 7. If any provision of this act or its application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: April 29, 1998

  
JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 18<sup>th</sup> day of May 1998

  
DON SCHOUQUIST, GOVERNOR